

REMARKS CONCERNING THE AMENDMENTS

Antecedent basis for the amendment to claim 13 may be found generally in the specification, and, for example, page 26, lines 12-15, where it is stated: “a processor where the information of the suit and rank of the individual cards is processed “

Similarly, the specification and examples therein show the placement of individual hands of cards and reading those cards as the individual hands are finished within the play of a round of cards, thus being less than a complete deck of cards.

SUMMARY OF THE OFFICE ACTION

1. Claims 13-23 have been rejected under 35 USC 112, second paragraph as being indefinite

It is asserted that claim 13 (and every claim dependent therefrom) is indefinite for failing to recite a use without setting forth any steps recited in a process.

2. Claims 13-23 have been rejected under 35 USC 101 as an improper method claim by reciting only a use and no steps involved in the process.

It is asserted that claim 13 (and every claim dependent therefrom) is a non-statutory claim for failing to recite a use without setting forth any steps recited in a process.

3. Claims 1-6 and 9-16 have been rejected under 35 USC 103(a) as Unobvious over Soltys (US 6,638,161) in View of Purton (WO 00/51076).

It is asserted that Soltys discloses:

- a) a card reading device for reading spent cards at the conclusion of a round of play (Soltys Figs 6 and 7; Purton element 13);
- b) sending a signal representing at least one of suit and ranks of cards fed into a card in-feed area of the card reading device (Col. 3, lines 60-64 and column 23, lines 23-38);
- c) Soltys uses a static orientation bar-code reader for interpreting the suit and/or rank of the spent cards;
- d) It would have been obvious to one skilled in the art to use the Purton optical card recognition system, along with the card moving elements of Purton, to read cards one-at-a-time prior to depositing cards one at a time into a card collection area of the card reading device (Purton elements 15 and 19; Figure 3; Page 5, lines 5-9 and 15-19).
- e) It would have been obvious to use the spent card reading device of Purton in place of the Soltys system to further allow for the inspection of spent cards for signs of tampering (Purton pages 13-15).

RESPONSE TO THE REJECTIONS

1. Claims 13-23 have been rejected under 35 USC 112, second paragraph as being indefinite

It is asserted that claim 13 (and every claim dependent therefrom) is indefinite for failing to recite a use without setting forth any steps recited in a process. Claim 13 has been amended as follows:

- e. determining composition of hands played in the round of play of the casino table card game by sending a signal representing the at least one of rank and suit of each spent card in an order in which each spent card was placed in the card in-feed area, wherein the signal is sent to a processor where the signal of information of at least one of the suit and rank of the individual cards is processed.

The last paragraph of the claim now recites the positive step of determining hand composition. This paragraph no longer merely recites “used,” but in combination with the many other positive steps recited (e.g., “providing,” “moving,” “reading” and “sending,”) a definitive process with particular steps is recited. It is believed that a process with multiple positive steps, even if there is an additional functional step without positive step recital, satisfies 35 USC 112, as did the previous claim language, but Applicants have made a good faith effort to comply with the request of the Examiner on this issue.

2. Claims 13-23 have been rejected under 35 USC 101 as an improper method claim by reciting only a use and no steps involved in the process.

It is asserted that claim 13 (and every claim dependent therefrom) is a non-statutory claim for failing to recite a use without setting forth any steps recited in a process. Claim 13 has been amended so that the last paragraph of the claim no longer merely recites “used,” but instead recites a step of determining hand composition, followed by the specific manner of doing so. It is believed that a process with multiple positive steps, even if there is an additional functional step without positive step recital, satisfies 35 USC 101, as did the previous claim language, but Applicants have made a good faith effort to comply with the request of the Examiner on this issue.

Claims 13-23 have been rejected under 35 USC 103(a) as Obvious over Soltys (US 6,638,161) in View of Purton (WO 00/51076).

It is asserted that Soltys discloses:

- a) a card reading device for reading spent cards at the conclusion of a round of play (Soltys Figs 6 and 7; Purton element 13);
- b) sending a signal representing at least one of suit and ranks of cards fed into a card in-feed area of the card reading device (Col. 3, lines 60-64 and column 23, lines 23-38);
- c) Soltys uses a static orientation bar-code reader for interpreting the suit and/or rank of the spent cards;
- d) It would have been obvious to one skilled in the art to use the Purton optical card recognition system, along with the card moving elements of Purton, to read cards one-at-a-time prior to depositing cards one at a time into a card collection area of the card reading device (Purton elements 15 and 19; Figure 3; Page 5, lines 5-9 and 15-19).
- e) It would have been obvious to use the spent card reading device of Purton in place of the Soltys system to further allow for the inspection of spent cards for signs of tampering (Purton pages 13-15).

Claim 13 has been amended to further clarify the scope of the invention. Claim 13 requires that only cards removed from play are read, and not the entire set of cards. In view of the present amendments, the rejection is now improper, for the reasons set forth below.

Applicant concurs with the Examiner's statement of the teachings of the Soltys and Purton references. However, applicant respectfully submits that it is improper to combine the Purton reference with Soltys in the manner suggested.

The purpose of the Purton device is to verify the completeness of a deck or multiple decks of cards *prior to* using the group of cards in a card game. In contrast, the card reader of Soltys reads an entire deck of cards prior to and/or after a round of play. Neither reference teaches or suggests a device for reading only the cards being removed from play of the game, not an entire set of cards (such as one or multiple decks) of cards, for the purpose of determining hand composition *after cards are removed from play*.

Applicant's device is not used for reading sets of cards prior to play. Soltys reads all cards in the deck, and the Purton device is not designed or suggested for the use recited. Therefore the Examiner has failed to establish a *prima facie* case of obviousness in view of the amended claims.

The claims have been amended to recite that less than an entire deck of cards is placed into the in-feed area of the present technology in reconstructing hands. The object and structure of Purton is to confirm and authenticate an entire deck or sets of decks of playing cards. (e.g., Abstract "...adapted to receive one or more decks of playing cards..." and "A deck is inspected to insure that after use, the deck is complete and that no extra cards are present" (Page 1, lines 13-14) *prior to commissioning the cards for play*. The objective and structure and use of the Purton device is therefore not suggested for use in hand confirmation with fewer than a full deck provided to the device.

Additionally, there is only a single structure in Purton (FIG. 3) that shows the limitation in claim 13 of Applicant that cards are removed in order, one-at-a-time, from the bottom of the set of cards inserted into the card in-feed area. This is more than a trivial consideration as in this recitation of Applicants, cards from consecutive hands may be inserted into the top of a pile while cards from previous hands are still being removed and imaged because the cards are inserted in order to the top of a pile while being removed by the device from the bottom of the pile. When cards are removed from the top of the pile, the device must be stopped for insertion of cards and consecutive cards inserted are no longer placed in an order of play, as new cards are inserted that are removed before old cards played have been removed. When cards are removed from the top of the pile and inserted on the top of another pile (reversing order of cards), the same adverse effects are amplified, because now the order of cards is being reversed.

Therefore, in even to have a partial attempt to assert that the combination of Soltys and Purton render the claims obvious, significant picking and choosing from within Purton must be made, without any motivation or instruction from either Purton or Soltys. It is only after an analysis of the operation and claimed structure and function of the presently claimed invention that one would actually be directed towards a practice of technology similar to that recited in the claims of this Application.

One cannot merely use the single potentially functional (in the practice of the presently claimed technology) Purton device as a proposed equivalent to or substitution for the Soltys static card analyzer. The software present in the disclosure of Purton does

not enable hand evaluation or reconstruction and the edge-read code of Soltys would not be useful in combination with the image data generated by Purton and required in the present claims.

There is a further distinction and inability to combine the references to meet the recited capability and functions of the claims. In the practice of the invention and as claimed, spent cards (and less than the entire set of cards are read), and only the spent cards are read when inserted (see claims 17 and 18 for even more specific limitations). The nature of the Soltys device is that all cards in the support tray must be read, as the reading head movement cannot be finely resolved to start reading at a specific card edge. This requires that in multiple deck devices, every previously inserted card, rather than only the most recently spent cards must be read and interpreted and analyzed. This requires greater strain on the processing capacity of the system, with no intended benefit. Once cards have been placed in a shoe and read, they cannot change, so rereading them is a superfluous step. This is avoided by the practices recited in the claims.

As can be seen, the two references cannot be combined to even assert obviousness without substantial picking and choosing from among alternatives without any specific motivation for selections from the references, and the devices of both Purton and Soltys must be substantively modified, again without any instruction or motivation from the prior art, to meet the limitations of the claims.

CONCLUSION

The amended and new claims are in condition for allowance and all rejections and objections have been overcome by amendment and argument.

Respectfully submitted,

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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop: AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 1 AUGUST 2006.

Mark A. Litman
Name


Signature